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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/692,828	DICKINSON ET AL.	
	Examiner	Art Unit	
	Ruth C. Rodriguez	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 September 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-100* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-100* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1, 47, 61 and 75 are objected to because of the following informalities:

- Claim 1 recites "the free end" and "the peak" in the thirteenth line.
- Claim 47 recites "the free end" and "the peak" in the fifteenth line.
- Claim 61 recites "the free end" and "the peak" in the sixteenth line.
- Claim 75 recites "the free end" and "the peak" in the twelfth line.

Correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 3-7, 9-12, 14-21, 25-29, 33, 35-39, 41-43, 45-47, 49-53, 55-57, 59-61, 63-67, 69-71 and 73-76 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62 of U.S. Patent No. 6,691,380. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a hindrance provided between the peak and the free end.

4. Claims 32 and 77-100 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62 of U.S. Patent No. 6,691,380 in view of Smith (U.S. Patent No. 5,987,714). Vassiliou discloses the claimed invention when the claim limitations are given its broadest interpretation. Smith teaches the use of a relief opening and the use of an elastic body in combination with the clip.

5. Claims 1, 3-7, 9-12, 14-21, 25-29, 33, 35-39, 41-43, 45-47, 49-53, 55-57, 59-61, 63-67, 69-71 and 73-76 are rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,279,207. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a hindrance provided between the peak and the free end.

6. Claims 32 and 77-100 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,279,207 in view of Smith (U.S. Patent No. 5,987,714). Vassiliou discloses the claimed invention when the claim limitations are given its broadest interpretation. Smith teaches the use of a relief opening and the use of an elastic body in combination with the clip.

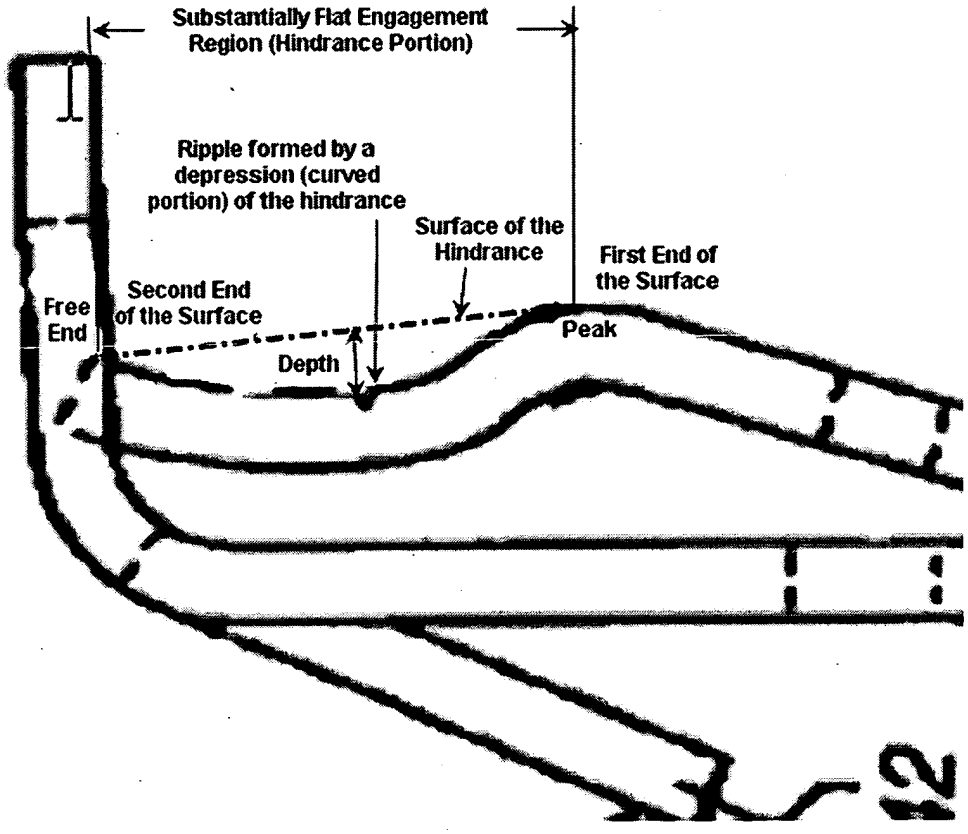
Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3-7, 9-12, 14-17, 25-29, 33, 35-39, 41, 45-47, 49-53, 55, 59-61, 63-67, 69 and 73-76 are rejected under 35 U.S.C. 102(b) as being anticipated by Benedetti (US 4,402,118).

A spring fastener (10) comprises a first side (12) and a second side (14) opposite the first side (Figs. 1-8). The first side is connected to the second side thereby forming a U-shaped structure (Figs. 1-8). A bottom portion (54) connects the first side and the second side (Figs. 1-8). A first engagement spring (34) is connected to the first side in the vicinity of the bottom portion. The second side comprises second barbs (68) having second front ends and a second engagement spring (36). The second engagement spring is connected to the second side in the vicinity of the bottom portion (Figs. 1-8).



Each of the first and second engagement springs has a substantially flat engagement region with a hindrance portion (region of the engagement spring between 46 and the free end of the spring 34 or region of engagement spring between 48 and the free end

of the spring 36) between a free end and a peak (46 or 48) in the vicinity of the peak (Figs. 1-8). The hindrance portion comprises only one to three ripples having the form of a depression (recess provided between 46 and the free end of the spring 34 and recess provided between 48 and the free end of the spring 36) on the hindrance portion. The depression has a deepest part, a front side, a back side and a width (Figs. 1-8). The hindrance portion has a surface (between 46 and the free end of the spring 34 and between 48 and the free end of the spring 36) wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-8).

Benedetti also discloses that:

- The hindrance portion comprises ripples (defined by the recess between 46 and the free end of the spring 34 and defined by the recess between 48 and the free end of the spring 36). Each ripple has the form of a depression (recess between 46 and the free end of the spring 34 and recess between 48 and the free end of the spring 36). The depression has a deepest part, a front side, a back side and a width (Figs. 1-8). The hindrance portion has a surface and comprises not more than three ripples wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-8).

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-8).

- The hindrance portion comprises only one ripple (defined by the recess between 46 and the free end of the spring 34 or defined by the recess between 48 and the free end of the spring 36).
- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple.
- The ripple width is at least twice the size of the depth of the ripple.
- The back side has a slope in the range of 15 to 30 degrees with regard to the general plane (defined between the peak and the free end of the engagement spring) of the hindrance portion.
- The front side (top portion of 34 or 36 near the free end of the engagement spring) has a higher slope than the back side (bottom portion of 34 or 36 near the peak of the engagement spring).

A spring fastener (10) comprises a first side (12), a second side (14) opposite the first side, a bottom portion (54) and a top portion (Figs. 1-8). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 1-8). A bottom portion (54) connects the first side and the second side (Figs. 1-8). The first side comprises first barbs (66) having first front ends (68) and a first engagement spring (34) is connected to the first side in the vicinity of the bottom portion. The second side comprises second barbs (68) having second front ends and a second engagement spring (36) connected to the second side in the vicinity of the bottom portion (Figs. 1-8). Each of the first and second engagement springs has a free end (free end of 34 or 36) in the vicinity of the top

portion (Figs. 1-8). Each of the first and second engagement springs also comprises a peak (46,48) and an engagement region substantially flat engagement region with a hindrance portion (region of the engagement spring between 46 and the free end of the spring 34 or region of engagement spring between 48 and the free end of the spring 36) between a free end and a peak in the vicinity of the peak (Figs. 1-8). The hindrance portion comprises only one ripple (defined by the recess between 46 and the free end of the spring 34 and defined by the recess between 48 and the free end of the spring 36) having the form of a depression (recess provided between 46 and the free end of the spring 34 and recess provided between 48 and the free end of the spring 36) on the hindrance portion. The depression has a deepest part, a back side (near the free end) substantially lacking a front side (near the peak) and a width (Figs. 1-8). The hindrance portion has a surface (between the peak and the free end) wherein the depth of the ripple is the distance between the surface of the hindrance and the deepest part of the ripple (Figs. 1-8). The ripple provides increased removal force and when the fastener is pulled by an extension (20) of a first part (16) engaged to the first and second barbs after the fastener has been inserted into a slot (28) of a second part (26) (Figs. 1-8). The slot having a slot width and edges on which edges the engagement region is engaged (Figs. 1-8). It is inherent that the increased removal force is due to the hindrance portion and the fastener can be extracted when pulled by the extension without damage to the fastener as Figs. 1-8 since the spring fastener only engages the sides of the slot in order to retain the spring fastener and upon application of a considerable amount of force the spring fastener can deform allowing the

disengagement of spring fastener and the slot without causing any damage to the spring fastener.

- The back side has the form of a curvature with a gradually decreased slope (Figs. 1-8).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-8).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-8).
- The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 1, 3 and 5-7).
- The engagement region is at least partially wider that the rest of the engagement spring (Fig. 4).

For claim 33, the same rejection of claim 1 applies to claim 33 that claims an assembly having a first part (16) that comprises an extension (20) and a spring fastener in accordance to claim 1 where the fastener can be extracted when pulled by the rib without damage to the fastener (Figs. 1-8).

Regarding claim 38, the same rejection of claim 11 applies to claim 38 that claims an assembly having a first part that comprises an extension (70) and a spring

fastener in accordance to claim 11 where the fastener can be extracted when pulled by the rib without damage to the fastener (Figs. 1-8).

For claim 47, the same rejection of claim 1 applies to claim 47 that claims an assembly having a second part with a slot and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by an extension without damage to the fastener (Figs. 1-8).

Regarding claim 52, the same rejection of claim 11 applies to claim 52 that claims an assembly having a second part with a slot and a spring fastener in accordance to claim 11 where the fastener can be inserted into the slot and extracted when pulled by an extension without damage to the fastener (Figs. 1-8).

For claim 61, the same rejection of claim 1 applies to claim 61 that claims a vehicle (C. 2, L. 59-61) comprising an assembly having a first part with an extension and a second part with a slot and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (Figs. 1-8).

Regarding claim 66, the same rejection of claim 11 applies to claim 66 that claims a vehicle comprising an assembly having a first part with an extension and a second part with a slot and a spring fastener in accordance to claim 11 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (Figs. 1-8).

For claim 75, the same rejection of claim 1 applies to claim 75 since the hindrance portion comprises one structure selected from ripple (defined by the recess

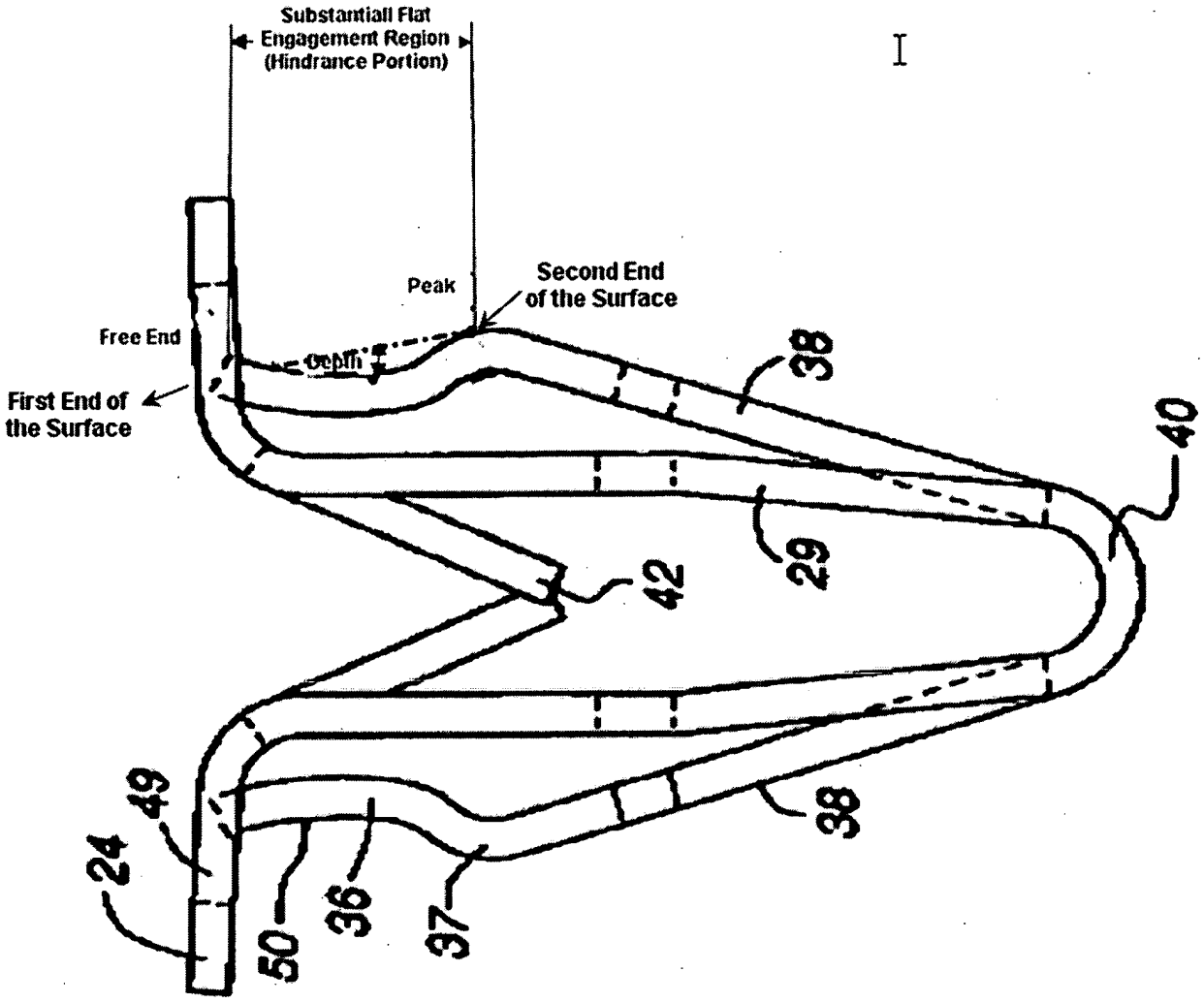
provided between 46 and the free end of the spring 34 and defined by the recess provided between 48 and the free end of the spring 36), side rib, upward solid bent extension parallel to the peak and the free end, knurled region and a combination thereof (Figs. 1-8). Each hindrance portion has a depth (Figs. 1-8).

Regarding claim 76, the same rejection of claim 75 applies to claim 76 that claims a vehicle (C. 2, L. 59-61) comprising parts (16,26) connected with the fastener of claim 75.

9. Claims 1, 3-7, 10-12, 14-17, 25, 30, 31, 33, 35-39, 41, 47, 40, 50, 52, 53, 55, 61, 63, 64, 66, 67, 69, 75 and 76 are rejected under 35 U.S.C. 102(b) as being anticipated by Osterland et al. (US 6,928,705 B2).

A spring fastener (20,120) comprises a first side (22,122) and a second side (22,122) opposite the first side (Figs. 1-21). The first side is connected to the second side thereby forming a U-shaped structure (20,120) having a cavity between the first side and the second side (Figs. 1-21). A bottom portion (40,140) connects the first side and the second side and a top portion (24,124). The first side comprises first barbs (26,126) having first front ends and a first engagement spring (28,128). The first engagement spring connected to the first side in the vicinity of the bottom portion (Figs. 1-21). The second side comprises second barbs (26,126) having second front ends and a second engagement spring (28,128). The second engagement spring connected to the second side in the vicinity of the bottom portion (Figs. 1-21). Each of the first and second engagement springs has a free end (end of 28,128) in the vicinity of the top portion and also comprises a peak (at 37,137) and an engagement region (36,136) with

a hindrance portion (region of the engagement spring between 37,137 and the free end of the spring 28,128) between the free end and the peak in the vicinity of the peak (Figs. 1-21).



The hindrance portion comprises only one to three ripples having the form of a depression (recess provided between 37,137 and the free end of the spring 28,128) on the hindrance portion. The depression has a deepest part, a front side, a back side and a width (Figs. 1-8). The hindrance portion has a surface (between 37,137 and the free

end of the spring 28,128) wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-21).

Osterland also discloses that:

- The hindrance portion comprises ripples (defined by the recess between the peak 37 and the free end 26 the spring 34 and defined by the recess between 137 and the free bend 126 of the spring). Each ripple has the form of a depression (recess between the peak 37 and the free end 26 the spring 34 or the recess between 137 and the free bend 126 of the spring). The depression has a deepest part, a front side, a back side and a width (Figs. 1-21). The hindrance portion has a surface and comprises not more than three ripples wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-21).

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-21).

- The hindrance portion comprises only one ripple (defined by the recess between the peak 37 and the free end 28 of the spring or defined by the recess between the peak 137 and the free end 128 of the spring).

- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple (Figs. 1-21).

- The ripple width is at least twice the size of the depth of the ripple.

- The back side has a slope in the range of 15 to 30 degrees with regard to the general plane (defined between the peak and the free end of the engagement spring) of the hindrance portion (Figs. 1-21).

- The front side (top portion of 34 or 36 near the free end of the engagement spring) has a higher slope than the back side (bottom portion of 34 or 36 near the peak of the engagement spring).

A spring fastener (20,120) comprises a first side (22,122) and a second side (22,122) opposite the first side (Figs. 1-21). The first side is connected to the second side thereby forming a U-shaped structure (20,120) having a cavity between the first side and the second side (Figs. 1-21). A bottom portion (40,140) connects the first side and the second side and a top portion (24,124). The first side comprises first barbs (26,126) having first front ends and a first engagement spring (28,128). The first engagement spring connected to the first side in the vicinity of the bottom portion (Figs. 1-21). The second side comprises second barbs (26,126) having second front ends and a second engagement spring (28,128). The second engagement spring connected to the second side in the vicinity of the bottom portion (Figs. 1-21). Each of the first and second engagement springs has a substantially flat engagement region (36,136) with a hindrance portion (region of the engagement spring between 37,137 and the free end of the spring 28,128) between a free end and a peak (37,137) in the vicinity of the peak (Figs. 1-21). The hindrance portion comprises only one to three ripples having the form of a depression (recess provided between 37,137 and the free end of the spring 28,128) on the hindrance portion. The depression has a deepest part, a front side, a back side

and a width (Figs. 1-8). The hindrance portion has a surface (between 37,137 and the free end of the spring 28,128) wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-21).

Osterland also discloses that:

- The back side has the form of a curvature with a gradually decreasing slope (Figs. 1-21).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-21).
- The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 10A-11 and 20A-21).
- The fastener further comprises additional lower barbs (137) pointing inwardly and originating from the vicinity of the bottom portions of the first side and the second side of the fastener (Figs. 12-21).
- Each side of the spring fastener has only one upper barb and one lower barb (Figs. 12-21). The upper barb of one side facing the lower barb of the other side and vice versa (Figs. 12-21.

For claim 33, the same rejection of claim 1 applies to claim 33 that claims an assembly having a first part (60) that comprises an extension (54) and a spring fastener in accordance to claim 1 where the fastener can be extracted when pulled by the rib without damage to the fastener (Figs. 1-21).

Regarding claim 38, the same rejection of claim 11 applies to claim 38 that claims an assembly having a first part that comprises an extension (24) and a spring fastener in accordance to claim 11 where the fastener can be extracted when pulled by the rib without damage to the fastener (Figs. 1-21).

For claim 47, the same rejection of claim 1 applies to claim 47 that claims an assembly having a second part (56) with a slot (58) and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by an extension without damage to the fastener (Figs. 1-21).

Regarding claim 52, the same rejection of claim 11 applies to claim 52 that claims an assembly having a second part with a slot and a spring fastener in accordance to claim 11 where the fastener can be inserted into the slot and extracted when pulled by an extension without damage to the fastener (Figs. 1-21).

For claim 61, the same rejection of claim 1 applies to claim 61 that claims a vehicle (C. 1, L. 28-34) comprising an assembly having a first part with an extension and a second part with a slot and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (Figs. 1-21).

Regarding claim 66, the same rejection of claim 11 applies to claim 66 that claims a vehicle comprising an assembly having a first part with an extension and a second part with a slot and a spring fastener in accordance to claim 11 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (Figs. 1-21).

For claim 75, the same rejection of claim 1 applies to claim 75 since the hindrance portion comprises one structure selected from ripple (defined by the recess provided between 37 and the free end of the spring 28 and defined by the recess provided between 137 and the free end of the spring 128), side rib, upward solid bent extension parallel to the peak and the free end, knurled region and a combination thereof (Figs. 1-21). Each hindrance portion has a depth (Figs. 1-21).

Regarding claim 76, the same rejection of claim 75 applies to claim 76 that claims a vehicle (C. 1, L. 28-34) comprising parts (56,60) connected with the fastener of claim 75.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 2, 8, 13, 34, 40, 48, 54, 62 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedetti.

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Benedetti fails to disclose that the gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the arch has a radius of 0.03 to 0.05 mm. However, it would have been obvious matter of design

choice to provide a gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the radius of the arch being 0.03 to 0.05 mm, since such a modification would have involved a mere change in the size of a component. A change is size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 3 for the rejection of claims 11. Benedetti fail to disclose the dimensions of the spring fastener. However, it would have been obvious matter of design choice to provide the dimension cited in the claims since such a modification would have involved a mere change in the size of a component. A change is size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Allowable Subject Matter

12. Claims 18-24, 32, 42-44, 56-58, 70-72 and 77-100 would be allowable if the Applicant overcomes the double patenting rejection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments filed 04 September 2007 have been fully considered but they are not persuasive.

14. The first argument is that Benedetti fails to disclose "the depth of each ripple is the distance between the surface of the hindrance portion and the deepest part of the respective ripple" since Benedetti discloses a curved portion having the same thickness. This argument fails to persuade. The claims only require that "a substantially flat portion" that is between the peak and the free end just as shown in the figure above. The curved portion disclosed by Benedetti can be considered the ripple since the claim does not include any limitation that there is a curved portion between the free end and the peak in addition to the hindrance portion. The surface is defined, in the figure, by the free end and the peak. Therefore the claim limitations are met when the depth of each ripple is considered as the distance between the surface (defined only by the part of the hindrance that is next to the peak and the free end) and the deepest part of the respective ripple (lowest part of the curve). The Applicant argues that the spring has the same thickness throughout with no ripples. The Examiner fails to persuade by this argument because the claim does not define what parameters are being used to define the thickness. This argument could be persuasive if the claims define that the thickness is defined between a side of the engagement spring that is facing outwardly away from the other engagement and an opposite side of the engagement spring that is facing inwardly towards the other engagement spring and the ripples create an area of reduced thickness with respect to the rest of the hindrance portion.

15. The next argument is that the curved portion does not function as a hindrance. The Examiner fails to be persuaded by this argument because the claims do not contain any limitation defining what a hindrance portion or any functional limitation for the hindrance. The hindrance is considered a label and Applicant is reminded that where the physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the invention over the prior art. In re Pearson, 494 F. 2d 1399, 1403, 181 USPQ 641,644 (CCPA 1074); 326 F.2d 437, 140 USPQ 273 (CCPA 1964).

16. The next argument about what is considered as the recess is not persuasive because the claims are not reciting "a recess". The Examiner was using the term recess to refer to the curved portion that extends between the free end and the peak. However, the current figure clearly labels the surface of the spring that is considered as the ripple.

17. The Applicant argues that the office action fails to point out the ripple, hindrance portion, depression and the depth. The Examiner fails to be persuaded by this argument. As illustrated above and explained before, the hindrance is the entire surface that extends between the peak and the free end. The surface is defined only by the ends of the hindrance that are located next to the peak and next to the free end. The ripple is the rest of the curved portion that extends between the free end and the peak. The ripple is defined by the curved portion that is formed when a depression is provided between the free end and the peak. Finally, the depth is the distance that is defined between the surface (either at the free end or at the peak) and the lowest part of

the ripple (portion of the curved portion that is furthest away from the free end or the peak).

18. Finally, the Applicant argues the clip of Benedetti will be damage during extraction since the extension 20 is rigid and the clip will deform if it is pulled by the extension since "the material will pass beyond its modulus of elasticity". This argument fails to persuade. The clip is made of spring steel and the spring steel usually has a high modulus of elasticity. The Examiner indicated that the clip will deform when it is being pulled by the extension, however, this deformation is not permanent since the elasticity of the spring steel will help it recover its shape especially if a spring with a high modulus of elasticity is being used. The selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In this case, a spring having a high modulus of elasticity can be chosen to prevent damage to the clip when it is being pulled by the extension.

19. The same response to the arguments applied to Benedetti will also serve to respond to the arguments against Osterland because the Applicant presents the same concerns for this reference.

20. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the frictional engagement area is less than the frictional engagement available from the ripple and depression") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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rcr
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